

Crosby, Michael

From: Crosby, Michael
Sent: Tuesday, June 14, 2016 11:28 AM
To: 'BYRNE, STEPHEN A'
Subject: RE: Santee Board prep

Steve,

I'm not sure when our Board will be asked to approve the FPO ... timing of that had not been worked out as of Friday.

When our Board approves - details (could and likely) will go public including our analysis ... so I think timing needs to be thought out very carefully.

I believe Lonnie and Kevin are discussing. For info, Lonnie is at APPA in Phoenix this week ... due back Thursday.

Per my email (Friday below), Lonnie had asked for the ... (final) SCANA fixed price presentation and SCANA letter ... be ready for a package that we will submit to our Board this week. I believe Lonnie had discussed with Kevin ... receiving at least a draft of the letter.

I assume you OK with the proposed joint board meeting agenda ... I have forwarded it a couple of times now ... the first time was last Tuesday, June 7, 2016 6:03 PM.

Besides the Fixed Price Option ... I think the 2 biggest things are ... 1.) discussion around the bankruptcy scenario ... and ... 2.) SCANA's plan to address Santee Cooper's (March 3) recommendations - namely, the addition of outside EPC expertise to help manage WECs meager performance on the list of engineering impediments.

Regarding the Construction Oversight Review Board and the Project Assessment Report (our May 19 meeting) ... I forwarded Santee Coopers comments on both to Jeff Archie (and the entire SCANA executive team) back on June 2nd ... they were never acknowledged.

I know fiddling with emails on vacation is a pain in the rear ... so enjoy Scotland.

Safe travels ... and we will see you on Monday,

Thanks,
 Michael

-----Original Message-----

From: BYRNE, STEPHEN A [mailto:SBYRNE@scana.com]
 Sent: Tuesday, June 14, 2016 10:31 AM
 To: Crosby, Michael
 Cc: BRAZELL, BETH E
 Subject: [EXTERNAL SENDER] Re: Santee Board prep

Got it. I will talk to Kevin about the letter, I assume you don't need it until your board approves, which I understand won't be until July. I am in Scotland until Sunday.

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: Crosby, Michael

Sent: Tuesday, June 14, 2016 9:30 AM

To: BYRNE, STEPHEN A

Subject: Fwd: Santee Board prep

***This is an EXTERNAL email. Please do not click on a link or open any attachments unless you are confident it is from a trusted source.

Michael R. Crosby
iPhone

Begin forwarded message:

From: "Crosby, Michael" <michael.crosby@santeecooper.com<mailto:michael.crosby@santeecooper.com>>

Sent: Friday, June 10, 2016 5:00 PM

To: "BYRNE, STEPHEN A" <SBYRNE@scana.com<mailto:SBYRNE@scana.com>>

Cc: "Pelcher, Steve" <stephen.pelcher@santeecooper.com<mailto:stephen.pelcher@santeecooper.com>>, "Carter, Lonnie" <lonnie.carter@santeecooper.com<mailto:lonnie.carter@santeecooper.com>>, "MARSH, KEVIN B" <KMARSH@scana.com<mailto:KMARSH@scana.com>>

Subject: RE: Santee Board prep

Steve,

Lonnie and I have reviewed the SCANA Fixed Price Option Evaluation slides ... just 2 comments:

1. Please eliminate the pictures (pics and project update not needed for our Board)
2. Please include results of SCANA evaluation & and a recommendation

Also, for information we need a SCANA letter recommending the fixed price option.

Lonnie and Kevin have discussed letter ... not sure who on your end may be working on this?

SCANA letter and fixed price presentation will be forwarded (electronically) to our Board sometime next week. The electronic system we use for Board communications provides a safe means to disseminate non-public (executive session) material for advance review.

I would still like to go over proposed June 20 agenda when you get a chance ... see June 7 email below.

The proposed agenda covers the topics we can anticipate.

Please let me know when you can discuss.

Thanks,
Michael

From: Crosby, Michael

Sent: Tuesday, June 07, 2016 6:03 PM

To: sbyrne@scana.com<mailto:sbyrne@scana.com>; MARSH, KEVIN B

Cc: Carter, Lonnie; Baxley, Mike; Pelcher, Steve; Cherry Marion;

jason.w.williams@scana.com<mailto:jason.w.williams@scana.com>; Cherry, Marion; Williams, Jason

Subject: VCS - Privileged and Confidential

Steve,

A quick follow-up to our phone conversation this morning.

Vogtle milestone payment schedule - we would be interested in any information you can raise on the Vogtle Project regarding work they may be doing on a new milestone payment schedule. Danny has mentioned on a couple of occasions that Vogtle settled on 200 milestones ... but he has never mentioned any progress towards an associated cash flow. It would be interesting to know what is going on with Vogtle if possible.

Also as you know, we are making preparations for two board meetings this month:

1. Friday, June 17th - Santee Cooper regular board meeting
 - * Fixed Price analysis – Santee Cooper presentation (executive session)
2. Monday, June 20th - Santee Cooper / SCANA joint board meeting in Columbia
 - * Fixed Price analysis – SCANA presentation (executive session)

We anticipate bankruptcy scenario questions at both board meetings. I know your folks are working on some of this ... but we need a high-level plan and talking points around the following:

1. Best guess estimate on project time delay
2. Process for acquiring WEC intellectual property
 - a. Need a timeline on SCANA confirmation that IP has been escrowed and audited
3. How would we handle any potential engineering design debt issues
4. Toshiba / WEC – contracted long lead equipment not yet received
 - a. How would we obtain contracts, completing manufacturing, and receive equipment
5. Replacement EPC contractor (Fluor)
6. Other

Finally, Lonnie asked me to forward you and Kevin a proposed agenda for the joint meeting on the 20th. Here is what I have so far ... welcome your comments.

SC / SCANA Joint Board Meeting (June 20, Columbia) - Proposed Agenda (executive session)

1. Fixed Price Option
 - a. SCANA analysis - presentation
 - b. PSC Testimony – any comments that can be shared
 - c. Draft SCANA letter to Santee Cooper – recommending Fixed Price Option
 - d. Potential Bankruptcy – outside legal opinion & plan to address (Wenick / Lindsay / Baxley)
2. SCANA update on Santee Cooper (5) recommendations dated Mar 3, 2016
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- b. George Wenick – legal advice and DRB update
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 - a. May 19 – executive leadership agreed to narrow focus to major engineering issues
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- 5. Professional Oversight of EPC Agreement – status update
 - a. SCANAs plan to address ... note, this item closely coupled to item 2 above.

Steve ... lets plan to discuss (all) of this on Thursday (late pm) ... or Friday (afternoon) if possible.

Let me know what works best for you.

Thanks,
Michael

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Crosby, Michael

From: BYRNE, STEPHEN A <SBYRNE@scana.com>
Sent: Tuesday, June 14, 2016 11:57 AM
To: Crosby, Michael
Cc: ARCHIE, JEFFREY B
Subject: [EXTERNAL SENDER] Re: Santee Board prep

Michael,

We will be prepared with the FPO presentation. I have asked Ron Lindsay to coordinate with Kevin Marsh on the letter as I have not been in that loop. Kevin is at EEI in Chicago through Wednesday. We will be prepared to answer bankruptcy questions, but it will be a difficult situation if it were to happen (not that we anticipate that it will) and the best we can do is be prepared and, as you are aware, we are making those preparations. Jeff will be ready to address engineering issues and the construction oversight board. I also believe that George Wenick will be available.

Steve

Regarding the agenda

From: Crosby, Michael <michael.crosby@santeecooper.com>
 Sent: Tuesday, June 14, 2016 11:27 AM
 To: BYRNE, STEPHEN A
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Cc: Carter, Lonnie; Baxley, Mike; Pelcher, Steve; Cherry Marion;

jason.w.williams@scana.com<mailto:jason.w.williams@scana.com>; Cherry, Marion; Williams, Jason

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CMPS TIMELINE

Crosby, Michael

From: Crosby, Michael
Sent: Thursday, June 16, 2016 10:58 AM
To: Carter, Lonnie
Cc: Cherry, Marion; Pelcher, Steve; Williams, Jason
Subject: RE: V.C. Summer
Attachments: MRC - 2016 06 16 - LNC Timeline.pdf

Lonnie ... see attached ... quick and dirty ... but should help to jog memory.

I'm sure I missed a few details ... I will keep looking.

If you (or others) can think of anything to add ... please let me know.

Thanks,
Michael

From: Carter, Lonnie
Sent: Thursday, June 16, 2016 7:33 AM
To: Crosby, Michael
Cc: Cherry, Marion; Pelcher, Steve; Williams, Jason
Subject: Re: V.C. Summer

Michael,

Please layout time line for me where we first asked SCANA to work on mile stone payment schedule and specifically to get help. And when did going to the DRB first come up. Would like for Board meeting.

Thanks
Lonnie

Sent from my iPad

On Jun 15, 2016, at 5:47 PM, Crosby, Michael <michael.crosby@santeecooper.com> wrote:

I'm good Lonnie ... this reduces to a 30 day (or less) full court press to:

1. DRB - complete all work ... get the DRB up and running
2. CMPS case - support Secretariat / Wenick ... get the case submitted on or before Jul 15

We will make our share of payment #6 tomorrow.

Thanks,
mrc

From: Carter, Lonnie
Sent: Wednesday, June 15, 2016 5:23 PM
To: Crosby, Michael
Cc: Cherry, Marion; Pelcher, Steve; Williams, Jason
Subject: Re: V.C. Summer

Michael,

Please make the payment. I talked to Kevin, we agree to this Payment in lieu of Danny trying to send a larger bill. Wenick is to get us to the DRB before the next payment which does mean we would owe two more \$100m payments. This frustrating because we could have further along if SCANA had reached out for help when we suggested.

Call if you wish to discuss.

Thanks,
Lonnie

On Jun 15, 2016, at 4:58 PM, Crosby, Michael <michael.crosby@santeecooper.com> wrote:

Lonnie,

I became aware earlier today that Kevin Marsh has approved making payment #6 (for a total of \$600M) ... AND ... instead of this payment being **#6 of 7** per the Oct 2015 Amendment ... this payment will be considered **#6 of 8** (see Wenick to Pelcher email below).

Are you OK with making payment #6 ... SCANA is already circling the wagons for Santee Cooper approval ?

The way project invoicing works is ... if we make payment **#6** ... this will give us about 30 days to solve the issue or make the decision to take the case to the DRB.

If the DRB decision spills past **July 15** ... WEC will argue hard for 2 more payments ... totaling 9.

We cannot let the DRB decision become open-ended ... we need an agreed upon strategy and plan.

Food for thought ... should you get an opportunity to talk with Kevin.

Michael

From: Wenick, George [<mailto:gdwenick@smithcurrie.com>]
Sent: Wednesday, June 15, 2016 3:38 PM
To: Pelcher, Steve; BYNUM, ALVIS J JR
Cc: Crosby, Michael
Subject: [EXTERNAL SENDER] RE: V.C. Summer

Steve,

Redacted - Privileged

Redacted - Privileged

George

From: Pelcher, Steve [<mailto:stephen.pelcher@santeecooper.com>]
Sent: Wednesday, June 15, 2016 3:27 PM
To: BYNUM, ALVIS J JR; Wenick, George
Cc: Crosby, Michael
Subject: RE: V.C. Summer

Redacted - Privileged

Thanks.

Steve

From: BYNUM, ALVIS J JR [<mailto:ABYNUM@scana.com>]
Sent: Wednesday, June 15, 2016 3:21 PM
To: Pelcher, Steve; Wenick, George
Subject: [EXTERNAL SENDER] RE: V.C. Summer

Redacted - Privileged

From: Pelcher, Steve [<mailto:stephen.pelcher@santeecooper.com>]
Sent: Wednesday, June 15, 2016 3:11 PM
To: Wenick, George <gdwenick@smithcurrie.com>; BYNUM, ALVIS J JR
<ABYNUM@scana.com>
Subject: RE: V.C. Summer

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Redacted - Privileged

Thanks.

Steve

From: Wenick, George [<mailto:gdwenick@smithcurrie.com>]
Sent: Wednesday, June 15, 2016 3:07 PM
To: Pelcher, Steve; BYNUM, ALVIS J JR
Subject: [EXTERNAL SENDER] RE: V.C. Summer

Steve,

Redacted - Privileged

George

From: Pelcher, Steve [<mailto:stephen.pelcher@santeecooper.com>]
Sent: Wednesday, June 15, 2016 2:57 PM
To: Wenick, George; BYNUM, ALVIS J JR
Subject: RE: V.C. Summer

Thank you, George.

Redacted - Privileged

Steve

From: Wenick, George [<mailto:gdwenick@smithcurrie.com>]
Sent: Wednesday, June 15, 2016 2:42 PM
To: Pelcher, Steve
Cc: AL BYNUM
Subject: [EXTERNAL SENDER] FW: V.C. Summer

Steve,

Redacted - Privileged

George

From: Wenick, George
Sent: Wednesday, June 15, 2016 2:35 PM
To: 'swansora@westinghouse.com'
Cc: 'Corgan, Brian'; AL BYNUM
Subject: FW: V.C. Summer

Rick,

There seems to be some confusion. Al has been in Italy on vacation and just returned on Sunday. He tells me he has not communicated with you since before he left. In any case, does WEC agree with the following proposal:

1. The Owner will make payment of \$100 million by wire tomorrow. The deadline for today has passed.
2. That payment will be the sole payment for June and will be treated the same as the first five \$100 million payments under the October 2015 Amendment.
3. WEC will provide "phantom billings" for June, using the original four categories, as it did for the five previous months of this year; and
4. There will be a true up concerning the June payment in the same way that the first five payments in 2016 are to be true up under the October 2015 Amendment.

As counsel for the Owner, I have been authorized to make this offer on its behalf. If WEC agrees, please indicate that you have the authority to accept the offer on WEC's behalf and that WEC does accept, or have someone with such authority do so. If WEC believes that emails between authorized parties is insufficient, please propose an alternative. The Owner would like to ensure that WEC is paid.

If you have any questions or wish to discuss this please call me.

George

Reply to:

George D. Wenick
gdwenick@smithcurrie.com
 Smith, Currie & Hancock, LLP
 2700 Marquis One Tower
 245 Peachtree Center Avenue
 Atlanta, GA 30303-1227

Direct Dial 404/582-8037
Fax. 404/688-0671

From: Corgan, Brian [<mailto:bcorgan@kilpatricktownsend.com>]
Sent: Wednesday, June 15, 2016 10:13 AM
To: Wenick, George
Cc: Swanson Richard A.
Subject: Re: V.C. Summer

George,

Rick Swanson and Al Bynum have been handling this issue, and for me to interject myself would, I suspect, be counterproductive. You or Al are free to work directly with Rick on this, just copy me on your exchanges.

I am copying Rick on this response.

I can speak with you if it becomes either necessary or helpful.

Brian G. Corgan
Kilpatrick Townsend
Chambers Construction Law
Firm of the Year 2015 and 2016
404.815.6217
Bcorgan@kiltown.com

On Jun 15, 2016, at 9:34 AM, Wenick, George <gdwenick@smithcurrie.com> wrote:

Brian,

I understand that the various CEOs have agreed by email that the owner will fund \$100 million for June. The October 2015 Amendment does not address such payment.

The owner is set to send the wire but believes that we need a more formal understanding than simply the emails. We also feel that the parties should spell out what we believe in implicit, namely, that the payment will be treated the same as the first five \$100 million payments, that WEC will continue to provide "phantom billings" for June as it did for previous months of this year, and that there will be a true up concerning this payment in accordance with the terms of the October 2015 Amendment.

I will be in the office all day, if you would like to call me to discuss this.

George

Reply to:
George D. Wenick
gdwenick@smithcurrie.com

Smith, Currie & Hancock, LLP
2700 Marquis One Tower
245 Peachtree Center Avenue
Atlanta, GA 30303-1227
Direct Dial 404/582-8037
Fax. 404/688-0671

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- Oct – Feb
 - Multiple discussions with SCANA executive management impressing upon them the need to proactively pursue the timely development of a CMPS as soon as possible As soon as possible being Dec 31 immediately after consummation of the WEC acquisition of CB&I Stone and Webster.
- Thu, Mar 3rd
 - Santee Cooper formal recommendations ... emailed to Kevin
- Mon, Mar 7th
 - Meeting in Kevin's conference room to discuss formal recommendations
 - Recommendation #1 – Santee Cooper request to formally engage 3rd party (Bechtel – Jason Moore) to assist with development of an appropriate CMPS.
 - Over next 6 weeks ... Jeff Archie made a mess of this ... Steve Byrne remained more than an arm's distance away.
 - I had multiple face meetings with Jeff & Steve ... and launched multiple emails trying to get this done.
 - Jeff Archie first attempted to hire Jason Moore under the table to avoid the appearance that Bechtel was involved with the Project.
 - This really ticked off Craig Albert & Ty Troutman
 - Jeff Archie & Al Bynum ... next dragged their feet and made a mess out of getting a formal service agreement in place to on-board Bechtel ... they just would not follow-up on the process without me poking them.
 - At some point in April ... Bechtel washed their hands of being involved with SCANA.
 - Looking back to the Bechtel assessment – SCANA was never fully supportive of the effort – never made Bechtel feel welcome ... Craig Albert discussed this with Santee Cooper many times.
 - Per Ty Troutman ... the only reason Bechtel was willing to consult on the CMPS ... was out of respect to Lonnie and Santee Cooper ... Bechtel is not in the consulting business.
 - Per Troutman ... you cannot help someone who does not want your help ... Bechtel made a business decision to move on.
 - However, during this Bechtel mess ... SCANA found it easy to hire (for a 2 day gig) an independent consultant that had been involved with the TVA Watts Bar 2 Project ... the guy was a buddy (of a buddy) of Jeff Archie. The consultant was a squared-away guy (per Marion) but the scope of his work was limited to 2 days.
- Fri, Mar 11th
 - Lonnie / Leighton meet with Kevin / Harold Stowe
 - I'm sure Santee Cooper recommendations were discussed in detail.

- Wed, Apr 13th
 - First Presidents Meeting
 - CMPS discussed in detail ... all need to avoid DRB
 - Roderick commits to phone call (next week) to check progress
- Thu, Apr 21st
 - First Danny call
 - Had to drag Byrne to this call ... but he engaged thereafter
 - DRB avoidance ... discussed at each Danny call
- Tue, Apr 26th
 - Next Danny call
- Tue, May 3rd
 - Next Danny call
- Fri, May 6th
 - Next Danny call
 - Kevin in mountains ... Byrne leads
- Fri, May 13th
 - Next Danny call
 - Lonnie ... bone fishing ... Crosby leads
- Thu, May 19th
 - Kevin's conference room
 - CMPS
 - At impasse with WEC ... discussed letting Danny sit for a while
 - Discussed (again) retain 3rd party to help with CMPS
 - Discussed Bechtel Assessment
 - Discussed Construction Oversight Review Board
- Mon, May 23rd
 - After Board rehearsal ... Lonnie attempts to call Kevin
 - Lonnie goes to Wampee (linemen)
 - Finally hook-up with Kevin ... early afternoon
 - Discussed next move with CMPS and Danny
 - Discussed 3rd party review of Danny's books
 - Discussed potentially making payment #6
 - Kevin ... now serious about engaging Wenick and DRB
 - Kevin takes action to contact Wenick
- ~~Mon, May 30th~~

WED, JUN 1

 - Wenick meets with SCANA Business & Finance (B&F) and Marion
 - Wenick announces plan to use 3rd party expert ... Secretariat

- Jun 7 & 8
 - Secretariat first lands ... for working session with B&F and Marion (Day 1 & 2)
- Jun 15 & 16
 - Secretariat ... back on site (Day 3 & 4)

Lonnie ... note, all the while throughout this process (6 months) ... Santee Cooper team legal has been pushing for:

- SCANA and Wenick ... to get DRB set-up
- SCANA ... to engage bankruptcy counsel

Crosby, Michael

From: Carter, Lonnie
Sent: Wednesday, July 13, 2016 5:03 PM
To: MARSH, KEVIN B
Cc: Crosby, Michael; Baxley, Mike
Subject: RE: Westinghouse

Kevin,

Thank you for your explanation why you believe the Owners at this time should make a \$30 million payment, above contract requirements, in addition to the \$100 million the Owners have been paying and I believe are contractually bound to pay WEC for this month if a dispute is filed with the DRB on or before July 15. At the outset, there are three points we agree upon:

Redacted - Privileged

You stated in conversation that George Wenick has recommended **Redacted - Privileged**

Redacted - Privileged

In your email, you express concern that we have made a commitment to Danny Roderick on this issue. I recall our conversation with Danny and Jeff Benjamin at the last CEO meeting, but did not perceive that discussion as a unilateral promise on our part, without consideration or accommodation from WEC, to extend payments to WEC beyond what is contractually required. The Owners have already agreed to make an extra payment beyond the original five described in Paragraph 12 of the October 2015 Amendment, and have already made that payment. That action alone is already of substantial benefit to WEC, and WEC should not have the expectation of some further advantage.

This situation is made much more difficult by WEC's continued refusal to give us meaningful construction project expenditure information over the course of the now six month \$100 million payment period. In signing the October 2015 Amendment, each party pledged through Section 12 of that document to make a good faith effort to reach agreement on a milestone

payment schedule. Candidly, WEC has not done that. By failing to open its books while claiming confidentiality and proprietary protections; telling us more detailed expenditure information is unavailable because of the manpower required to produce it; and by sending us a current monthly invoice for \$160 million, which is neither substantiated nor authorized in any contract language, WEC is not negotiating in good faith. We sanction that behavior by responding with an increased payment.

What has particularly frustrated Santee Cooper from the date of the 2015 Amendment is WEC's failure to seize an opportunity and significantly ramp up construction progress at the site. The primary purpose of the fixed price option and milestone payment schedule is to incentivize WEC to get the units built. Through the last 6 months, while the Owners have paid \$600 million dollars, construction progress has only been an aggregate of 3%. Moreover, for the June billing period, had the Owners accepted WEC's milestones and payment schedule, which contained twenty-seven milestones and requested payment of \$156 million for the month, only four of the twenty-seven were completed, which would entitle WEC to payment of just \$23.1 million. This rate of progress will never meet the current completion schedule, impacting production tax credits, the availability of cheaper energy for our customers, and bringing the costs of construction to conclusion.

The DRB time crunch in which we find ourselves is unfortunate, but respectfully, was avoidable. The Santee Cooper team has been requesting since the first of this year that we immediately engage an independent analysis of the project's progress and needs going forward in order to better inform the Owner's position in the construction milestone debate. Our first suggestion as to a particular vendor was not satisfactory to the SCE&G team. We continued to persist in our request through various delays we did not understand, the actual engagement with another vendor was not finalized until much later, and now we are in time constraints.

For Santee Cooper to be in a position to consider approval of any additional payment at this time could only occur if certain conditions are met and understandings agreed to, specifically as follows:

1. If WEC provides the necessary detailed documentation, to the Owners' satisfaction, as to construction expenditures during the six previous months;

Redacted - Privileged

4. The true-up process described generally in Paragraph 12 of the October 2015 Amendment is agreed to in all details and commences as established in the contract; and,
5. All parties reach agreement on the actual amount or method of calculation for remaining monthly payments to WEC if the DRB process extends beyond 60 days.

If the Owners can agree to this approach, we have no objection to telling WEC we would consider increasing this month's payment in mid-month, assuming all above conditions are met.

Redacted - Privileged

Redacted - Privileged

With respect to point one above, it's important to note that all we are asking for is that Danny Roderick provide what he has routinely promised. You will recall his statements about "opening his kimono" to provide the Owners full information, and we must hold him accountable to that promised standard of conduct. Thus, when stating that we need verification of project expenditures, this includes either the Owners' finance personnel having access to WEC's financial books and records, or all parties agree upon an independent auditor to immediately carry out this process. The Owners should not accept further delay that only complicates the payment situation.

As you are aware, we are under close scrutiny from our customers concerning nuclear costs. The media has provided a statewide steady drumbeat that costs overruns are being borne by the customers of our companies. Respectfully, we should not make a substantial extra-contractual payment to WEC unless significant quid pro quo is realized. WEC has negotiated itself into the position it presently holds, has claimed but failed to show us proof that it is in financial "extremis" on the project as indicated in an email forwarded to us, and has not been cooperative on negotiations over the milestone payment schedule (Danny even failing to return our calls). For a WEC official to use the term "*in extremis*" (at the point of death) in terms of its cash situation raises the obvious concern WEC does not have the financial wherewithal to appropriately and efficiently manage a construction project of this size, and the Owners will need verification that this term was used ill-advisedly. We need to bring all this to closure sooner than later, and moving to the DRB will force WEC to provide proof of what it claims. Going to the DRB will also start a clock to end this wrangling, which is not healthy for the project.

As you know, Secretariat is providing its report to the Owners tomorrow. Please let me know how you wish to proceed with our internal discussions and then with WEC.

' apologize for this long note, but believe you need full disclosure of my thoughts in writing, as you were good enough to do for me. Please call when you are ready to discuss. This matter is of the essence and my team and I will be available.

Thanks,
Lonnie

From: MARSH, KEVIN B [mailto:KMARSH@scana.com]
Sent: Tuesday, July 12, 2016 4:50 PM
To: Carter, Lonnie
Subject: [EXTERNAL SENDER] Westinghouse

Lonnie,

You will need to get a briefing from your team on the phone conversation this morning with the lawyers to get their perspective, but what I learned from my team is that [REDACTED - Privileged]

[REDACTED - Privileged]

While it is very hard to be civil to Westinghouse, we did tell Danny and Jeff at the recent Presidents' Meeting that we were working on a new cash flow curve based on a new methodology for determining cash flows for the project and that we would review that new schedule and methodology with them in about two weeks. To make that work we needed to extend our estimated payments under the contract for 1-2 months. Jeff asked to send us a proposal for consideration giving us new monthly payment amounts. That is the basis for the payment request he sent us. [REDACTED - Privileged]

[REDACTED - Privileged]

Accordingly, we only need to extend by one month the estimated payments to Westinghouse.

We will receive the new cash flow schedule from Secretariat this week for our teams to review. I would like to keep our word and review the information with Westinghouse in hopes of reaching an agreement on the Milestone Schedule. If we are not successful by July 31, I would file with the DRB on August 1. To make that work we need to agree on a monthly payment amount for the month of July. Keep in mind that what we pay in July will go towards the project, it will not be lost. If we go to the DRB we will be paying only \$100 for August and September. At that level, the project will suffer my opinion until we reach a settlement on the Milestone Payment Schedule or we receive a decision from the DRB.

The project team at the VCS site believes that Westinghouse is spending in excess of \$100 per month now. If Westinghouse is successful in improving hiring, they will need additional cash to underwrite those efforts. I would recommend we attempt to find a suitable number between the \$100 we were paying and the \$140MM Jeff offered for July we can settle on and make that payment by the 15th. If we review the information from Secretariat with them and still can't find a solution, then we file the DRB on August 1.

Thanks,
Kevin

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On Mar 28, 2016, at 3:41 PM, MARSH, KEVIN B <KMARSH@scana.com> wrote:

Danny,

I hope you are doing well and enjoyed a great Easter weekend. I am hearing more positive comments on the project than I have in a long time and am hopeful that construction progress will also show positive results. Steve is working on an agenda for our upcoming meeting on April 13th which should be available for your team soon. Based on discussions with my team, there are a couple items I wanted to make sure you were aware of prior to the meeting on April 13th.

First, as we agreed in our amended agreement, we were to make and have begun making 6 monthly payments of \$100 million each while the new Construction Milestone Schedule is being developed. These monthly payments began in January and were intended to cover your monthly construction costs which were expected to increase with the transition to Fluor as the new contractor. The amended contract calls for a true-up of the total payments (\$600 million) to actual construction costs incurred during the 6 month interim payment period. To date the actual monthly costs incurred are averaging approximately \$53 million. At the current rate of spending, SCE&G and Santee will be due a significant cash refund at the 6 month period (approx. \$141 million at this point). We are curious as to why actual work has not ramped up to a level consistent with the monthly payments of \$100 million. Also, given the unexpected significant deterioration in Toshiba's credit ratings and financial condition, what assurance can you give us that Westinghouse will have the cash to make the true-up payment to SCANA and Santee at the end of the 6 month payment period?

Second, as you will recall the development of a new Construction Milestone Payment schedule was a point of significant discussion in our recent amendment to the EPC. The goal of this payment schedule was to eliminate disagreements around expected payments to the former consortium when work had not been completed. The new payment schedule was to insure that all future payments to Westinghouse under the amended agreement would only be made when milestones were reached and related work had been completed. My team at has shared with me that the Westinghouse representatives at the site have presented us with a proposed schedule of cash payments that appears to be very heavily front loaded and does not match up with the milestones were are actively negotiating in the Construction Milestone Payment Schedule. This is not consistent with our discussions during negotiations last year and does not support the concept of making payments when work has been completed.

We will need to resolve these issues quickly if we are to complete the development of the Construction Milestone Payment Schedule in a timely fashion. I know we all want to avoid the dispute resolution process at this stage of work under the amended EPC Agreement.

Sincerely,
Kevin